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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/628,347	07/28/2000	Hirochika Matsuoka	35.C14671	3312
5514	7590	12/15/2004	EXAMINER	
FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112			NGUYEN, MADELEINE ANH VINH	
			ART UNIT	PAPER NUMBER
			2626	

DATE MAILED: 12/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/628,347

Applicant(s)

MATSUOKA, HIROCHIKA

Examiner

Madeleine AV Nguyen

Art Unit

2626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 July 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 14-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 14-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 8/22/2000.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

This communication is responsive to amendment filed on July 12, 2004.

Applicant cancels claims 1-13, adds new claims 14-20.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 14-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hayashi et al (US Patent No. 5,974,171).

Concerning claim 1, Hayashi discloses a patch image preparation method (Figs.1, 11) for preparing a patch image comprising a setting step, of setting kinds of patches included in the patch image in response to an instruction by a user (55, Fig.1; Fig.2); a selection step, of selecting an arrangement patch from the patches set in the setting step (54, Fig.1); a determination step, of determining an arrangement of normal area of the arrangement patch (56, Fig.1; col. 4, lines 12-21; col. 10, lines 37-50); and an arrangement step, of arranging the arrangement patch in an area other than the arrangement of normal area (paint area, line area, intra-paint line area), wherein the patch image preparation method causes execution of the selection step, the determination step and the arrangement step to all the patches set in the setting step (Figs.16-19; 23; col. 4, lines 12-61; col. 8, lines 13-44; col. 10, lines 37-65).

Art Unit: 2626

Hayashi does not directly teach non-permission area and area other than the non-permission area of the arrangement patch. However, Hayashi teaches an area determination circuit 247 of the area determination unit 253 which determines one of the following four areas for each pixel of the image: normal area, paint area, line area and intra-paint line area. The normal area designates nothing and an initial value is set to this area, the paint area designates the painting in a closed area, the line area designates the substitution by the marker color, the intra-paint line area designates a combination of the paint area and the line area, that is the line area in the paint area (col. 10, lines 37-50). Thus, the normal area is equivalent to a non-permission area since it designates nothing and it is set to an initial value. It would have been obvious to one skilled in the art at the time the invention was made to consider the normal area taught in Hayashi equivalent to the non-permission area of the arrangement patch since the normal area in the arrangement patch in Hayashi is set by a user as an area which is not edited, painted or modified, or in other words, a non-permission area.

Concerning claim 15, Hayashi further teaches that the arrangement of the normal area includes an area in which the patch has already been arranged and an area which is set based on a patch highly correlated with the arrangement patch and which highly correlates with the arrangement patch (areas with maximum color value), (col. 4, lines 41-61).

Concerning claim 16, Hayashi further teaches that the area which highly correlates with the arrangement patch is an area which has predetermined widths, respectively, in a main scan direction and a sub scan direction ((col. 4, lines 41-61, col. 10, lines 51-65).

Concerning claim 17, Hayashi further teaches that the setting step include setting a number of same patches to be arranged and the preparation method includes repeating the

Art Unit: 2626

selection step, the determination step, the arrangement step on the basis of the number set in the setting step (Figs.16-19).

Concerning claim 18, Hayashi further teaches that when the arrangement patch cannot be arranged in the area other than the arrangement of non-permission area, the arrangement patch is arranged within the arrangement of non-permission area (Figs.29, 30, 34).

Concerning claim 19, Hayashi teaches a program for performing, by a computer, a patch image preparation method for preparing a patch image as discussed in claim 1 above.

Concerning claim 20, Hayashi discloses a patch image preparation apparatus (Fig.1) for preparing a patch image comprises a setting unit (55), a selection unit (54), a determination unit (56), an arrangement unit (57) for performing the steps discussed in claim 1 above.

Conclusion

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a. Ohsawa (US Patent No. 4,907,076) discloses a color balance processing apparatus wherein color component signals are corrected through comparison with different color patches.

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO**

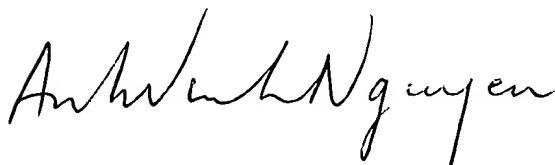
Art Unit: 2626

MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Madeleine AV Nguyen whose telephone number is 703 305-4860. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kimberly A Williams can be reached on 703 305-4863. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Madeleine AV Nguyen
Primary Examiner
Art Unit 2626

December 13, 2004